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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

CIVIL AND POLITICAL RIGHTS

PROMOTION AND PROTECTION OF HUMAN RIGHTS: HUMAN RIGHTS DEFENDERS

Written statement submitted by the Lawyers Committee for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[27 January 1999]

GE.99-11154 (E)

Protecting human rights defenders: towards full implementation of the "Declaration on Human Rights Defenders"

1. The Lawyers Committee for Human Rights welcomes the adoption of the Declaration on Human Rights Defenders, adopted by the General Assembly by its resolution 53/144 of 9 December 1998 under the formal name "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms", as a crucial step towards better protection of human rights defenders. By reaffirming that everyone has the right to promote and protect human rights, alone and with others, domestically and internationally, the Declaration responds to an important need for fuller recognition of the work and rights of human rights defenders. Precisely because of their critical role in promoting human rights awareness and debate on the national and international levels, many human rights defenders still find their rights flagrantly violated by repressive Governments.

Physical violence against human rights defenders

2. In recent years, the number of reported attacks on human rights defenders has increased dramatically. In his 1998 report to the Commission on Human Rights (E/CN.4/1998/68 and Corr.1), the Special Rapporteur on extrajudicial, summary or arbitrary executions reported that in 1997 he had sent 45 appeals (31 urgent) to Governments citing threats to the lives of human rights defenders. Attacks on human rights defenders frequently include intimidation and harassment, arbitrary arrest and detention, extrajudicial executions, disappearances, torture, and other forms of physical violence.

3. Direct violent attacks and harassment of human rights NGOs continues to be a problem in Mexico. Between 1995 and 1997, more than 100 human rights advocates received death threats and/or were subjected to harassment or violence in connection with their work.

4. In Egypt, following an investigation of widespread human rights violations committed by police, the Egyptian Organization for Human Rights (EOHR) published a report on 28 September which documents evidence of hundreds of arbitrary arrests and widespread torture. Hafez Abu Se'da, the Secretary-General of the EOHR, was detained on 1 December 1998 for questioning, and held incommunicado for five days before being released on bail. Mustafa Zidan, a lawyer and the author of the report, was arrested on 6 December 1998 and released on bail three days later. Both Mr. Abu Se'da and Mr. Zidan were charged with "dissemination abroad of false information harmful to Egypt's national interests".

5. In Tunisia, Khemais Ksila, Vice-President of the Tunisian League for Human Rights (LTDH), was arrested on 29 September 1997 after launching a hunger strike at the LTDH headquarters in Tunis and issuing a statement critical of the Government's intolerance of dissent and the harassment he had endured personally. On 11 February 1998, Mr. Ksila was fined 1,200 Tunisian dinars (approx. $1,100) and sentenced to three years in prison. The Government convicted him under articles 44, 49, 50 and 51 of the Press Code

and article 32 of the Penal Code of "defaming public order and the authorities, spreading false information of a nature to disturb public order, and inciting citizens to violate the laws of the country".

6. The "Declaration on Human Rights Defenders" reiterates the overall legitimacy of human rights activities, including the voicing of criticism and the publication of human rights information, as well as the obligation of States to take all necessary measures to effectively protect human rights defenders from violence and arbitrary action.

Repression of human rights defenders through national law

7. Many human rights defenders are confronted with other forms of repression, through domestic legislation. National laws and regulations frequently infringe upon the right to freedom of association by imposing onerous or arbitrary registration procedures or discriminatory restrictions on the right to obtain funding for human rights activities - particularly from outside the country. Other forms of legal restriction include denial of freedom of movement and assembly, and crippling limitations on human rights publications.

8. In Cambodia, attempts have been made to introduce a restrictive new law ("Draft Law on NGOs and Associations") which would allow for unacceptable government interference with the internal structure of NGOs and associations, as well as with their solicitation of funds, prohibiting foreign assistance. The draft law also envisages a burdensome registration regime with disproportionate penalties.

9. Legal protections for human rights defenders in some of the countries of the former Soviet Union - notably Azerbaijan, Belarus and Uzbekistan - are inadequate to allow advocacy NGOs to exercise fully their right to freedom of association. Current draft laws affecting NGO work cause confusion in practice about what regulations apply, and existing laws and administrative procedures are often so complex and mutually contradictory that they invite arbitrary barriers to free exercise of the right to freedom of association. The Governments of Azerbaijan, Belarus and Uzbekistan have arbitrarily denied applicant groups registration or stripped them of legally acquired registration which profoundly weakens their ability to work freely.

10. The Mexican Government has also developed legal restrictions on the rights of human rights NGOs. In particular, Mexico has adopted aggressive legal measures relating to the interaction of human rights NGOs with their foreign counterparts. The Government has sought to limit international financial donations to human rights NGOs that appear discriminatory: human rights groups are subject to restrictions that other non-governmental organizations are not. In an attempt to control the local activities of human rights NGOs, several Mexican states have promoted legislation providing for restrictive registration requirements and extensive governmental oversight mechanisms. Similar legislation has been proposed at the federal level. Participation in these registration and oversight regimes is mandatory in some cases and in others a prerequisite to receiving certain benefits, such as tax

exemptions. In all cases, the degree of oversight involved is excessive in proportion to the legitimate necessity of managing and supervising the benefits offered.

11. These types of restriction are irreconcilable with the letter and the spirit of the "Declaration on Human Rights Defenders". The Declaration affirms that everyone has the right to promote and protect human rights, "individually and in association with others", at the national and international levels. Rather than using national law to restrict the ability of human rights defenders to carry out their work, States should support and protect their rights and enact national law that facilitates their activities.

Implementation of the "Declaration on Human Rights Defenders" 1/

12. The Declaration sets a common goal for the effective protection of human rights defenders at the national and international levels. The Declaration should be fully implemented and become a truly "living document" for the protection of human rights defenders at risk. To this end, the Lawyers Committee for Human Rights issues the following recommendations to the key actors in the implementation process:

(a) **States**. All States Members of the United Nations have committed themselves to uphold their obligations under the Declaration and effectively guarantee the rights of all human rights defenders on their territory. States should take all measures necessary to ensure the full protection of human rights defenders. In particular, national legislation incompatible with the Declaration should be reviewed and, where necessary, new laws protecting and enabling the work of human rights defenders should be adopted. States should make the Declaration widely available to everyone, particularly those involved in human rights activities, and undertake its translation into all national languages;

(b) **Human Rights Defenders.** Individuals, groups and organizations should use the Declaration as a protective tool and press their Governments to guarantee fully all rights and freedoms of human rights defenders in law and in practice. Violations of the rights of the Declaration should be reported immediately to national and international human rights monitoring bodies;

(c) **Commission on Human Rights.** The Commission on Human Rights should establish a specific monitoring mechanism to review the implementation of the "Declaration on Human Rights Defenders". Such a mechanism should be able to receive and communicate to Governments allegations of attacks on the rights of human rights defenders, and be able to visit countries. To this end, the Commission should create a special item on its agenda on the effective implementation of the "Declaration on Human Rights Defenders". All special rapporteurs and working groups should continue to report separately on abuses of human rights defenders falling within their mandates;

(d) **High Commissioner for Human Rights.** The High Commissioner for Human Rights should ensure a wide dissemination of the "Declaration on Human Rights Defenders" within the United Nations system, as well as among experts of the human rights field offices, treaty bodies, special rapporteurs and working

groups. Given the urgency of better protection for human rights defenders, the High Commissioner is encouraged to establish a focal point within her Office for the protection of human rights defenders;

(e) **Treaty Bodies**. Treaty bodies should give more prominent attention to the valuable role of human rights defenders in the domestic implementation of treaty standards, and their need for better protection. Experts should more systematically inquire about the ability of human rights defenders to conduct their work in the States parties under review, preferably at the beginning of their dialogue with each State. Treaty bodies should inquire about the action of States parties to bring national legislation that is relevant to the implementation of the Declaration into accord with their international treaty obligations.

Notes

1/ For more information on the Declaration, see the Lawyers Committee's analytical report "Protecting Human Rights Defenders: Analysis of the newly adopted Declaration on Human Rights Defenders", January 1999.